



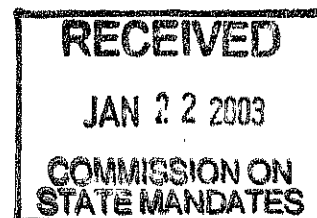
BEHAVIORAL HEALTH AND RECOVERY SERVICES
A Mental Health, Alcohol and Drug Service Organization

Dan Souza, LCSW
Director

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January 14, 2003

Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814



Re: *Handicapped and Disabled Students*
Chapter 1747, Statutes of 1984 and
Chapter 1274, Statutes of 1985
And Title 2, California Code of Regulations, Division 9

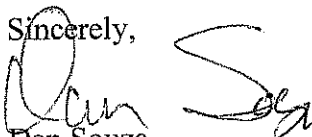
Dear Ms. Higashi:

Attached please find the County of Stanislaus' proposed changes to the Parameters and Guidelines as previously submitted. These changed Parameters and Guidelines not only incorporate the changes made by virtue of the passage of AB 2781, but also comport with the regulations which were found to be mandated in the original test claim. Hopefully, these revised Parameters and Guidelines will clear up issues being raised by the State Controller's Office during its present audits of this program.

At this time, I am also requesting that a prehearing conference be set to discuss the issues raised by this set of Parameters and Guidelines, as well as those proposed by the County of Los Angeles. I would suggest that the prehearing be held on February 26, 2003, the date prior to your regular February hearing date.

Thank you for your consideration of this request.

Sincerely,


Dan Souza
Mental Health Director
Stanislaus County

Attach.

PARAMETERS AND GUIDELINES

Sections 60000-60200
Title 2, California Code of Regulations, Division 9
Chapter 1747, Statutes of 1984
Chapter 1274, Statutes of 1985
Handicapped and Disabled Students

I. SUMMARY OF MANDATE

Chapter 1747 of the Statutes of 1984 added Chapter 26, commencing with section 7570, to Division 7 of Title 1 of the Government Code (Gov. Code).

Chapter 1274 of the Statutes of 1985 amended sections 7572, 7572.5, 7575, 7576, 7579, 7582, and 7587 of, amended and repealed 7583 of, added section 7586.5 and 7586.7 to, and repealed 7574 of the Gov. Code, and amended 5651 of the Welfare and Institutions Code.

To the extent that Gov. Code section 7572 and section 60040, Title 2, Code of California Regulations, require county participation in the mental health assessment for "individuals with exceptional needs," such legislation and regulations impose a new program or higher level of service upon a county. Furthermore, any related county participation on the expanded "Individualized Education Program" (IEP) team and case management services for "individuals with exceptional needs" who are designated as "seriously emotionally disturbed," pursuant to subdivisions (a), (b), and (c) of Gov. Code section 7572.5 and their implementing regulations, impose a new program or higher level of service upon a county.

The aforementioned mandatory county participation in the IEP process was not subject to the Short-Doyle Act in effect at the time the Commission rendered its decision, and which has been subsequently repealed. Accordingly, such costs related thereto are costs mandated by the state and are fully reimbursable within the meaning of section 6, Article XIII B of the California Constitution.

The provisions of Welfare and Institutions Code section 5651, subdivision (g), result in a higher level of service. Although formerly these provisions were an addition to the Short-Doyle program, said program has been repealed by virtue of Chapter 89, Statutes of 1991, effective June 30, 1991. Such services include psychotherapy and other mental health services provided to "individuals with exceptional needs," including those designated as "seriously emotionally disturbed," and required in such individual's IEP.

Such mental health services were subject to the cost sharing formula of the Short-Doyle Act, through which the state previously provided ninety (90) percent of the total costs of the Short-Doyle program, and the county was required to provide the remaining (10)

percent of the funds. Short-Doyle was repealed by Chapter 89, Statutes of 1991. Accordingly, to and including June 29, 1991, only ten percent of the program costs were reimbursable within the meaning of section 6, Article XIII B of the California Constitution. Given the repeal of the Short-Doyle Act, all costs of furnishing those mental health services set forth in Gov. Code sections 7571 and 7576 and their implementing regulations, are fully reimbursable pursuant to section 6, Article XIII B of the California Constitution.

II. COMMISSION ON STATE MANDATES' DECISION

The Commission on State Mandates, at its April 26, 1990 hearing, adopted a Statement of Decision that determined that County participation in the IEP process is a state mandated program and that any costs related thereto are fully reimbursable. Furthermore, any mental health treatment required by an IEP was found reimbursable, subject to the cost sharing of the Short-Doyle Act. Therefore, the mental health treatment costs will be costs mandated by the state.

III. ELIGIBLE CLAIMANTS

All counties are eligible claimants.

IV. PERIOD OF REIMBURSEMENT

At the time the test claim was heard, section 17557 of the Gov. Code stated that a test claim must be submitted on or before December 31 following a given fiscal year to establish eligibility for that year. The test claim for this mandate was filed on August 17, 1987; therefore, all costs incurred on or after July 1, 1986, are reimbursable.

Actual costs for one fiscal year should be included in each claim, and estimated costs for the subsequent year maybe included on the same claim, if applicable, pursuant to Government Code, section 17561.

If the total costs for a given fiscal year do not exceed \$200.00, no reimbursement shall be allowed, except as otherwise allowed by Gov. Code section 175674.

V. REIMBURSABLE COSTS

A. Costs Related to IEP Participation, Assessment and Case Management:

1. The scope of the mandate is one hundred (100) percent reimbursement; except for individuals billed to Medi-Cal only, and for those billings, only the Federal Financing Participation portion (FFP) is deducted from the costs, all other costs being fully reimbursable.

2. For each eligible claimant, the following costs are one hundred (100) percent reimbursable (Gov. Code, section 7572, subd. (d)(1):

a. Whenever an LEA refers an individual suspected of being an 'individual with exceptional needs' to the local mental health department, mental health assessment and recommendation by qualified mental health professionals in conformance with assessment procedures set forth in Article 2 (commencing with section 56320) of Chapter 4 of Part 30 of Division 4 of the Education Code, and regulations developed by the State Department of Mental Health, in consultation with the State Department of Education, including but not limited to the following mandated services:

- i. interview with the child and family,
- ii. collateral interviews, as necessary,
- iii. review of the records,
- iv. observation of the child at school, and
- v. psychological testing and/or psychiatric assessment, as necessary.

b. Review and discussion of mental health assessment and recommendation with parent and appropriate IEP team members. (Gov. Code, section 7572, subd. (d)(1).)

c. Attendance by the mental health professional who conducted the assessment at IEP meetings, when requested. (Gov. Code, section 7572, subd. (d)(1).)

d. Review by claimant's mental health professional of any independent assessment(s) submitted by the IEP team. (Gov. Code, Section 7572, subd. (d)(2).)

e. When the written mental health assessment report provided by the local mental health program determines that an 'individual with special needs' is 'seriously emotionally disturbed', and any member of the IEP team recommends residential placement based upon relevant assessment information, inclusion of the claimant's mental health professional on that individual's expanded IEP team.

f. When the IEP prescribes residential placement for an 'individual with exceptional needs' who is 'seriously emotionally disturbed,' claimant's mental health personnel's identification of out-of-home placement, case management, six month review of IEP, and expanded IEP responsibilities. (Gov. Code, section 7572.5.)

g. Required participation in due process procedures, including but not limited to due process hearings.

3. One hundred (100) percent of any administrative costs related to IEP Participation, Assessment and Case Management, whether direct or indirect.

B. Costs Related to Mental Health Treatment Services:

1. The scope of the mandate is one hundred (100) percent reimbursable, except for individuals billed to Medi-Cal only, and for those billings, only the Federal Financing Participation portion (FFP) is deducted from the costs, all other costs being fully reimbursable.

2. For each eligible claimant, the following cost items as well as such other cost items as may be required by regulation, for mental health services when required by a child's individualized education program (IEP), are one hundred percent reimbursable:

- a. Individual therapy,
- b. Collateral therapy and contacts,
- c. Group therapy,
- d. Day treatment,
- e. Medication monitoring and support,
- f. Intensive day treatment,
- g. Rehabilitation,
- h. Case management, and

i. Mental health portion of residential treatment in excess of the State Department of Social Services' payment for the residential treatment.

"Medication monitoring" includes all medication support services with the exception of the medications or biologicals themselves and laboratory work. Medication support services including prescribing, administering, dispensing and monitoring of psychiatric medications or biologicals necessary to alleviate the symptoms of mental illness.

3. One hundred (100) percent of any administrative costs related to mental health treatment services, whether direct or indirect.

IV. CLAIM PREPARATION

There are two satisfactory methods of submitting claims for reimbursement of increased costs incurred to comply with the mandate:

A. Actual Increased Costs Method.

To claim under the Actual Increased Costs Method, report actual increased costs incurred for each of the following expense categories in the format specified by the State Controller's claiming instructions. Attach supporting schedules as necessary:

1. Employee Salaries and Benefits. Show the classification of the employees involved, mandated functions performed, number of hours devoted to the function, and hourly rates and benefits.
2. Services and Supplies. Include only expenditures which can be identified as a direct cost resulting from the mandate. List cost of materials acquired which have been consumed or expended specifically for the purpose of this mandate.
3. Direct Administrative Costs. One hundred percent of any direct administrative costs related to IEP Participation, Assessment and Case Management, as well as one hundred percent of any direct administrative costs related to mental health treatment.
4. Indirect Administrative and Overhead Costs. Compensation for indirect costs is eligible for reimbursement. Indirect costs are those that have been incurred for common or joint purposes. These cost benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to OMB A-87.

Whether the 10% default rate or an ICRP is prepared, indirect costs may not result in a total combined reimbursement from DMH and SCO for program indirect costs which exceed the rate claimed.

B. Cost Report Method. Under this claiming method the mandate reimbursement claim is still submitted on the State Controller's claiming forms in accordance with the

claiming instructions. A complete copy of the annual cost report including all supporting schedules attached to the cost report as filed with DMH must also be filed with the claim forms submitted to the State Controller. The cost report incorporates all costs born by all mental health programs, and by regulation, counties are required to document their administrative costs as well.

To the extent that reimbursable indirect costs have not already been reimbursed by DMH from categorical funding sources, they may be claimed as follows under this method.

Compensation for indirect costs is eligible for reimbursement. Indirect costs are those that have been incurred for common or joint purposes. These cost benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to OMB A-87. For this option only, the net administrative costs determined pursuant to the cost report shall be allocated to all programs, and the proportional share that this program bears to all mental health programs are the indirect costs claimable under this methodology.

Whether the 10% default rate or an ICRP is prepared, indirect costs may not result in a total combined reimbursement from DMH and SCO for program indirect costs which exceed the rate claimed.

VII. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents and/or worksheets that show evidence of the validity of such costs. Pursuant to Government Code, section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. However, if no funds are appropriated for the fiscal year for which the claim is made, the time for the State Controller to initiate an audit shall commence to run from the date of initial payment of the claim.

VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENTS

- A. Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed.
- B. The following reimbursements for this mandate shall be deducted from the claim:
 - 1. Any direct payments (categorical funding) received from the State which are specifically allocated to this program; and
 - 2. Any other reimbursement for this mandate (including private insurance payments and Medi-Cal payments), which is received from any source, e.g., federal, state, etc.

IX. REQUIRED CERTIFICATION

An authorized representative of the claimant will be required to provide a certification of claim, as specified in the State Controller's claiming instructions, for those costs mandated by the state contained herein.

PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento, and I am over the age of 18 years and not a party to the within action. My place of employment is 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On January 22, 2003 I served Letter to Paula Higashi from Dan Souza dated January 14, 2003 and Parameters and Guidelines, *Handicapped and Disabled Students*, by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United State mail at Sacramento, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 22nd day of January, 2003 at Sacramento, California.


Declarant

Mr. Jim Spano
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